

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
WESTERN DIVISION**

PATRICK PURSLEY,	)	
	)	
Plaintiff,	)	Case No: 18 CV 50040
	)	
vs.	)	
	)	
THE CITY OF ROCKFORD, JAMES BARTON,	)	Judge Phillip G. Reinhard
JIM BOWMAN, RON GALLARDO, JOHN	)	
GENENS, CHARLENE GETTY, JEFF HOUDE,	)	
CHRISTINE BISHOP, SAM POBJECKY,	)	Magistrate Lisa A. Jensen
MARK SCHMIDT, BRUCE SCOTT, DOUG	)	
WILLIAMS, GREG HANSON, STEPHEN	)	
PIRAGES, City Administrator for the City of	)	
Rockford, as Special Representative for the	)	
ESTATE OF HOWARD FORRESTER, ESTATE	)	
OF GARY REFFETT, and ESTATE OF DAVID	)	
EKEDAHL, UNIDENTIFIED EMPLOYEES OF	)	
THE ROCKFORD POLICE DEPARTMENT,	)	
DANIEL GUNNELL, PETER STRIUPAITIS,	)	
JACK WELTY, and UNIDENTIFIED	)	
EMPLOYEES OF THE ILLINOIS STATE	)	
POLICE CRIME LAB,	)	
	)	
Defendants.	)	

**ANSWER TO SECOND AMENDED COMPLAINT**

Defendants, CITY OF ROCKFORD, ILLINOIS, and CHARLENE GETTY, through their attorneys, CITY OF ROCKFORD DEPARTMENT OF LAW, Nicholas O. Meyer, Legal Director, and Ifeanyi C. Mogbana, Assistant City Attorney, for their Answer to Second Amended Complaint, states as follows:

**Introduction**

1. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, deny the allegations contained in paragraph 1 of Plaintiff's Second Amended Complaint.

2. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, deny the allegations contained in paragraph 2 of Plaintiff's Second Amended Complaint.

3. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, deny the allegations contained in paragraph 3 of Plaintiff's Second Amended Complaint.

4. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, deny the allegations contained in paragraph 4 of Plaintiff's Second Amended Complaint.

5. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, deny the allegations contained in paragraph 5 of Plaintiff's Second Amended Complaint.

### **Jurisdiction and Venue**

6. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, denies the Defendants committed any tortious conduct, but admit the rest of the allegations contained in paragraph 6 of Plaintiff's Second Amended Complaint.

7. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, admit the allegations contained in paragraph 7 of Plaintiff's Second Amended Complaint.

8. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, admit the allegations contained in paragraph 8 of Plaintiff's Second Amended Complaint.

### **Parties**

9. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, admit the Plaintiff is a 53-year old resident of Champaign, but deny the remainder of the allegations contained in paragraph 9 of the Plaintiff's Second Amended Complaint.

10. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, admit the allegations contained in paragraph 10 of the Plaintiff's Second Amended Complaint.

11. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, admit the allegations contained in paragraph 11 of Plaintiff's Second Amended Complaint.

12. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, admit the allegations contained in paragraph 12 of Plaintiff's Second Amended Complaint.

13. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, admit the allegations contained in paragraph 13 of Plaintiff's Second Amended Complaint.

14. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, admit the allegations contained in paragraph 14 of Plaintiff's Second Amended Complaint.

15. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, deny the Plaintiff was wrongfully convicted, but admit the rest of the allegations contained in paragraph 15 of Plaintiff's Second Amended Complaint.

16. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, admit the allegations contained in paragraph 16 of Plaintiff's Second Amended Complaint.

### **Facts**

#### **The Crime**

17. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, admit the allegations contained in paragraph 17 of Plaintiff's Second Amended Complaint.

18. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, admit the allegations contained in paragraph 18 of Plaintiff's Second Amended Complaint.

19. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, admit the allegations contained in paragraph 19 of Plaintiff's Second Amended Complaint.

20. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, admit the allegations contained in paragraph 20 of Plaintiff's Second Amended Complaint.

21. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, admit the allegations contained in paragraph 21 of Plaintiff's Second Amended Complaint.

22. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, admit the allegations contained in paragraph 22 of Plaintiff's Second Amended Complaint.

23. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, lack knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 23 of Plaintiff's Second Amended Complaint.

24. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, lack knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 24 of Plaintiff's Second Amended Complaint.

25. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, lack knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 25 of Plaintiff's Second Amended Complaint.

26. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, admit the allegations contained in paragraph 26 of Plaintiff's Second Amended Complaint.

27. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, lack knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 27 of Plaintiff's Second Amended Complaint.

28. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, deny the allegations contained in paragraph 28 of Plaintiff's Second Amended Complaint.

Patrick Pursley

29. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, lack knowledge or information to form a belief about the truth of the allegations contained in paragraph 29 of Plaintiff's Second Amended Complaint.

30. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, lack knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 30 of Plaintiff's Second Amended Complaint.

31. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, lack knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 31 of Plaintiff's Second Amended Complaint.

32. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, lack knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 32 of Plaintiff's Second Amended Complaint.

33. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, lack knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 33 of Plaintiff's Second Amended Complaint.

34. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, lack knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 34 of Plaintiff's Second Amended Complaint.

35. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, lack knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 35 of Plaintiff's Second Amended Complaint.

Defendants Have No Suspects Until They Offer a Financial Reward

36. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, admit the allegations contained in paragraph 36 of Plaintiff's Second Amended Complaint.

37. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, lack knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 37 of Plaintiff's Second Amended Complaint.

38. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, lack knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 38 of Plaintiff's Second Amended Complaint.

39. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, lack knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 39 of Plaintiff's Second Amended Complaint.

40. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, lack knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 40 of Plaintiff's Second Amended Complaint.

Defendants Obtain a False Statement from Samantha Crabtree

41. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, lack knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 41 of Plaintiff's Second Amended Complaint.

42. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, lack knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 42 of Plaintiff's Second Amended Complaint.

43. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, lack knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 43 of Plaintiff's Second Amended Complaint.

44. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, lack knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 44 of Plaintiff's Second Amended Complaint.

45. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, lack knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 45 of Plaintiff's Second Amended Complaint.

46. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, lack knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 46 of Plaintiff's Second Amended Complaint.

47. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, lack knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 47 of Plaintiff's Second Amended Complaint.

48. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, deny the allegations contained in paragraph 48 of Plaintiff's Second Amended Complaint.

49. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, deny the allegations contained in paragraph 49 of Plaintiff's Second Amended Complaint.

50. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, deny the allegations contained in paragraph 50 of Plaintiff's Second Amended Complaint.

51. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, lack knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 51 of Plaintiff's Second Amended Complaint.

Defendants Fabricate Forensic Evidence to Implicate Plaintiff

52. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, admit the allegations contained in paragraph 52 of Plaintiff's Second Amended Complaint.

53. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, lack knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 53 of Plaintiff's Second Amended Complaint.

54. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, lack knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 54 of Plaintiff's Second Amended Complaint.

55. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, lack knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 55 of Plaintiff's Second Amended Complaint.

Defendants Use Fabricated Evidence to Charge and Prosecute Plaintiff

56. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, deny the allegations contained in paragraph 56 of Plaintiff's Second Amended Complaint.

57. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, lack knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 57 of Plaintiff's Second Amended Complaint.

58. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, deny the allegations contained in paragraph 58 of Plaintiff's Second Amended Complaint.

59. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, lack knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 59 of Plaintiff's Second Amended Complaint.

60. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, deny the allegations contained in paragraph 60 of Plaintiff's Second Amended Complaint.

Plaintiff's Trial, Wrongful Conviction, and Imprisonment

61. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, admit the allegations contained in paragraph 61 of Plaintiff's Second Amended Complaint.

62. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, admit the allegations contained in paragraph 62 of Plaintiff's Second Amended Complaint.



63. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, admit the allegations contained in paragraph 63 of Plaintiff's Second Amended Complaint.

Plaintiff's Exoneration

64. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, lack knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 64 of Plaintiff's Second Amended Complaint.

65. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, lack knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 65 of Plaintiff's Second Amended Complaint.

66. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, lack knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 66 of Plaintiff's Second Amended Complaint.

67. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, lack knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 67 of Plaintiff's Second Amended Complaint.

68. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, lack knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 68 of Plaintiff's Second Amended Complaint.

69. Defendants CITY OR ROCKFORD, and CHARLENE GETTY, lack knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 69 of Plaintiff's Second Amended Complaint.

70. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, admits the allegations contained in paragraph 70 of Plaintiff's Second Amended Complaint.

### Plaintiff's Damages

71. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, denies the allegations contained in paragraph 71 of Plaintiff's Second Amended Complaint.

72. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, lack knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 72 of Plaintiff's Second Amended Complaint, but deny any such pain was caused, or a result, of any misconduct by the defendants.

73. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, lack knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 73 of Plaintiff's Second Amended Complaint.

74. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, lack knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 74 of Plaintiff's Second Amended Complaint.

### **Rockford's Policies and Widespread Practices**

75. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, deny the allegations contained in paragraph 75 of Plaintiff's Second Amended Complaint.

76. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, deny the allegations contained in paragraph 76 of Plaintiff's Second Amended Complaint.

77. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, deny the allegations contained in paragraph 77 of Plaintiff's Second Amended Complaint.

78. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, deny the allegations contained in paragraph 78 of Plaintiff's Second Amended Complaint.

79. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, deny the allegations contained in paragraph 79 of Plaintiff's Second Amended Complaint.

**COUNT I**  
**42 U.S.C. § 1983 – Violation of Fourteenth Amendment Due Process Rights**

80. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, incorporate their responses to each paragraph of this pleading as if restated fully herein.

81. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, deny the allegations contained in paragraph 81 of Plaintiff's Second Amended Complaint.

82. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, deny the allegations contained in paragraph 82 of Plaintiff's Second Amended Complaint.

83. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, deny the allegations contained in paragraph 83 of Plaintiff's Second Amended Complaint.

84. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, deny the allegations contained in paragraph 84 of Plaintiff's Second Amended Complaint.

85. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, deny the allegations contained in paragraph 85 of Plaintiff's Second Amended Complaint.

86. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, deny the allegations contained in paragraph 86 of Plaintiff's Second Amended Complaint.

87. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, deny the allegations contained in paragraph 87 of Plaintiff's Second Amended Complaint.

88. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, deny the allegations contained in paragraph 88 of Plaintiff's Second Amended Complaint.

**COUNT II**  
**42 U.S.C. § 1983 – Unlawful Detention in Violation of the Fourth Amendment**

89. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, incorporate their responses to each paragraph of this pleading as if restated fully herein.

90. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, deny the allegations contained in paragraph 90 of Plaintiff's Second Amended Complaint.

91. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, deny the allegations contained in paragraph 91 of Plaintiff's Second Amended Complaint.

92. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, deny the allegations contained in paragraph 92 of Plaintiff's Second Amended Complaint.

**COUNT III**  
**42 U.S.C. § 1983 – Conspiracy to Deprive of Constitutional Rights**

93. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, incorporates their responses to this pleading as of fully restated here.

94. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, deny the allegations contained in paragraph 94 of Plaintiff's Second Amended Complaint.

95. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, deny the allegations contained in paragraph 95 of Plaintiff's Second Amended Complaint.

96. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, deny the allegations contained in paragraph 96 of Plaintiff's Second Amended Complaint.

97. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, deny the allegations contained in paragraph 97 of Plaintiff's Second Amended Complaint.

98. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, deny the allegations contained in paragraph 98 of Plaintiff's Second Amended Complaint.

99. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, deny the allegations contained in paragraph 99 of Plaintiff's Second Amended Complaint.

**COUNT IV**  
**42 U.S.C. § 1983 – Failure to Intervene**

100. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, incorporate their responses to each paragraph of this pleading as if fully restated here.

101. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, deny the allegations contained in paragraph 101 of Plaintiff's Second Amended Complaint.

102. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, deny the allegations contained in paragraph 102 of Plaintiff's Second Amended Complaint.

103. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, deny the allegations contained in paragraph 103 of Plaintiff's Second Amended Complaint.

104. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, deny the allegations contained in paragraph 104 of Plaintiff's Second Amended Complaint.

**COUNT V**  
**State Law Claim – Malicious Prosecution**

105. Defendants CITY OF ROCKFORD, and CHARLENE GETTY, incorporates their responses to each paragraph of this pleading as if fully rewritten here.

106. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, deny the allegations contained in paragraph 106 of Plaintiff's Second Amended Complaint.

107. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, deny the allegations contained in paragraph 107 of Plaintiff's Second Amended Complaint

108. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, deny the allegations contained in paragraph 108 of Plaintiff's Second Amended Complaint.

109. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, deny the allegations contained in paragraph 109 of Plaintiff's Second Amended Complaint.

110. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, deny the allegations contained in paragraph 110 of Plaintiff's Second Amended Complaint.

111. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, deny the allegations contained in paragraph 111 of Plaintiff's Second Amended Complaint.

**COUNT VI**  
**State Law Claim – Intentional Infliction of Emotional Distress**

112. Defendants CITY OF ROCKFORD and CHARLENE GETTY, incorporate their responses to each paragraph of this pleading as if fully rewritten herein.

113. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, deny the allegations contained in paragraph 113 of Plaintiff's Second Amended Complaint.

114. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, deny the allegations contained in paragraph 114 of Plaintiff's Second Amended Complaint.

115. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, deny the allegations contained in paragraph 115 of Plaintiff's Second Amended Complaint.

116. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, deny the allegations contained in paragraph 116 of Plaintiff's Second Amended Complaint.

117. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, deny the allegations contained in paragraph 117 of Plaintiff's Second Amended Complaint.

118. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, Admit the allegations contained in paragraph 118 of Plaintiff's Second Amended Complaint.

**COUNT VII**  
**State Law Claim – Civil Conspiracy**

119. Defendants CITY OF ROCKFORD and CHARLENE GETTY, incorporate their responses to each paragraph of this pleading as if fully rewritten herein.

120. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, deny the allegations contained in paragraph 120 of the Plaintiff's Second Amended Complaint.

121. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, deny the allegations contained in paragraph 121 of the Plaintiff's Second Amended Complaint.

122. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, deny the allegations contained in paragraph 122 of Plaintiff's Second Amended Complaint.

123. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, deny the allegations contained in paragraph 123 of Plaintiff's Second Amended Complaint.

124. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, deny the allegations contained in paragraph 124 of Plaintiff's Second Amended Complaint.

**COUNT VIII**  
**State Law Claim – *Respondeat Superior***

125. Defendants CITY OF ROCKFORD and CHARLENE GETTY, incorporate their responses to each paragraph of this pleading as if fully rewritten herein.

126. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, deny the allegations contained in paragraph 124 of Plaintiff's Second Amended Complaint, inasmuch as the alleged misconduct did not happen.

127. In response to paragraph 127 of Plaintiff's Second Amended Complaint, Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, deny there were any state law torts committed by agents of the City of Rockford as alleged in Plaintiff's Second Amended Complaint, and so Defendant, CITY OF ROCKFORD is not liable as a principal for any such torts.

**COUNT IX**  
**State Law Claim – Indemnification Pursuant to 745 ILCS 10/9-102**

128. Defendants CITY OF ROCKFORD and CHARLENE GETTY, incorporate their responses to each paragraph of this pleading as if fully rewritten herein.

129. Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, admit the allegations contained in paragraph 129 of Plaintiff's Second Amended Complaint.

130. In response to paragraph 130 of Plaintiff's Second Amended Complaint, Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, deny any and all of the misconduct alleged in Plaintiff's Second Amended Complaint.

131. In response to Paragraph 131 of Plaintiff's Second Amended Complaint Defendants, CITY OF ROCKFORD, and CHARLENE GETTY, denies that there is any basis for entry of judgment against them or any other Defendants in this case.

### AFFIRMATIVE DEFENSES

#### First Affirmative Defense Qualified Immunity

1. Plaintiff has brought this action against Defendant, City of Rockford employee, CHARLENE GETTY, alleging that her actions violated several provisions of the U.S. Constitution and possibly under Illinois common law.

2. Plaintiff complains of actions taken by Defendant, City of Rockford employee, CHARLENE GETTY, while acting under color of law as an employee of the City of Rockford Police Department.

3. In carrying out the complained of actions, which were within the scope of her official duty, Defendant, City of Rockford employee, CHARLENE GETTY, had no knowledge that said acts were illegal or unconstitutional, nor were said acts clearly violative of Plaintiff's rights at the time they were made.

4. Thus, Defendant, City of Rockford employee, CHARLENE GETTY, is entitled to qualified immunity from suit.



Second Affirmative Defense  
(Probable Cause)

1. Plaintiff has brought this action against Defendant, City of Rockford employee, CHARLENE GETTY, alleging that her actions were unreasonable under the Fourth Amendment.

2. Plaintiff complains of actions taken by Defendant, City of Rockford employee, CHARLENE GETTY while acting in her individual capacity as an employee of the City of Rockford Police Department.

3. In carrying out the complained of actions, which were within the scope of her official duties, Defendant, City of Rockford employee, CHARLENE GETTY submitted information to prosecutors and the judge, that constitute probable cause for the detention of the Plaintiff because a reasonable person would believe, based on the information that Defendant, City of Rockford employee, CHARLENE GETTY knew and submitted to obtain a warrant, that Plaintiff had committed a crime.

4. Thus, the existence of probable cause to arrest bars Plaintiff's wrongful detention claim against Defendant, City of Rockford employee, CHARLENE GETTY.

Third Affirmative Defense  
Absolute Testimonial Immunity

Defendant, City of Rockford employee, CHARLENE GETTY is entitled to absolute immunity for testifying in court proceedings, including proceedings related to the Ascher murder. *See, e.g., Briscoe v. LaHue*, 460 U.S. 325 (1983).

Fourth Affirmative Defense  
Statute of Limitations

Plaintiff's claims are untimely and barred by the applicable statutes of limitations.

Fifth Affirmative Defense  
Collateral Estoppel/Res Judicata

Plaintiff's claims are barred by the doctrine(s) of collateral estoppel and/or res judicata because he had a full and fair opportunity in his underlying criminal proceedings to litigate the same issues and/or claims raised in the Second Amended Complaint.

Sixth Affirmative Defense  
Intervening/Superseding Cause

The causal chain between any of Defendant, City of Rockford employee, CHARLENE GETTY actions and Plaintiff's conviction and/or imprisonment was broken by one or more intervening/superseding exercise(s) of independent judgment by another, including but not limited to Plaintiff, prosecutors, Illinois State Police personnel, witnesses, judges, and/or jurors.

Seventh Affirmative Defense  
745 ILCS 10/2-109 – Act or Omission of Employee

1. Under the Illinois Governmental and Governmental Employees Tort Immunity Act, a local public entity, such as Defendant, CITY OF ROCKFORD, ILLINOIS, is not liable for an injury resulting from an act or omission of its employee where the employee is not liable. 745 ILCS 10/2-109 – Act or Omission of Employee.

2. Based on the factual allegations in Plaintiff's Complaint, no employee of the, CITY OF ROCKFORD, ILLINOIS, is liable for the injuries which Plaintiff complains of.

4. Where no City employee is liable for the injuries that Plaintiff complains of, the Defendant CITY OF ROCKFORD, ILLINOIS, is not be held liable to Plaintiff.

Dated: October 30, 2019

CITY OF ROCKFORD, ILLINOIS, and  
CHARLENE GETTY, Defendants.  
By their attorneys  
**City of Rockford Department of Law**

By: /s/Ifeanyi C. Mogbana  
Ifeanyi C. Mogbana,  
Assistant City Attorney

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